

ASSEMBLY BILL

No. 1588

Introduced by Assembly Member Conway

February 3, 2014

An act to amend Sections 11358 and 11362.768 of the Health and Safety Code, relating to marijuana.

LEGISLATIVE COUNSEL'S DIGEST

AB 1588, as introduced, Conway. Marijuana.

Proposition 215, the Compassionate Use Act of 1996, an initiative measure enacted by the voters at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law prohibits a medical marijuana dispensary or provider that has a storefront or mobile retail outlet that ordinarily requires a local business license from being located within a 600-foot radius of a school. A violation of these provisions is a misdemeanor.

This bill would increase that radius to 1,000 feet. By expanding the scope of a crime, this bill would impose a state-mandated local program.

Existing law also provides that every person who plants, cultivates, harvests, dries, or processes any marijuana or any part thereof, except as otherwise provided by law, is guilty of a felony punishable by imprisonment in a county jail for 16 months, or 2 or 3 years.

This bill would impose the additional punishment of a \$500 fine on every person who violates that provision within a 1,000-foot radius of a school, as defined.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11358 of the Health and Safety Code is
2 amended to read:

3 11358. (a) Every person who plants, cultivates, harvests, dries,
4 or processes any marijuana or any part thereof, except as otherwise
5 provided by law, shall be punished by imprisonment pursuant to
6 subdivision (h) of Section 1170 of the Penal Code.

7 (b) *In addition to the punishment described in subdivision (a),*
8 *every person who violates subdivision (a) within a 1,000-foot*
9 *radius of a school shall also be punished by a fine of five hundred*
10 *dollars (\$500). For the purposes of this section, "school" means*
11 *any public or private school providing instruction in kindergarten*
12 *or grades 1 to 12, inclusive, but does not include any private school*
13 *in which education is primarily conducted in private homes.*

14 SEC. 2. Section 11362.768 of the Health and Safety Code is
15 amended to read:

16 11362.768. (a) This section shall apply to individuals specified
17 in subdivision (b) of Section 11362.765.

18 (b) No medical marijuana cooperative, collective, dispensary,
19 operator, establishment, or provider who possesses, cultivates, or
20 distributes medical marijuana pursuant to this article shall be
21 located within a ~~600-foot~~ 1,000-foot radius of a school.

22 (c) The distance specified in this section shall be the horizontal
23 distance measured in a straight line from the property line of the
24 school to the closest property line of the lot on which the medical
25 marijuana cooperative, collective, dispensary, operator,
26 establishment, or provider is to be located without regard to
27 intervening structures.

1 (d) This section shall not apply to a medical marijuana
2 cooperative, collective, dispensary, operator, establishment, or
3 provider that is also a licensed residential medical or elder care
4 facility.

5 (e) This section shall apply only to a medical marijuana
6 cooperative, collective, dispensary, operator, establishment, or
7 provider that is authorized by law to possess, cultivate, or distribute
8 medical marijuana and that has a storefront or mobile retail outlet
9 which ordinarily requires a local business license.

10 (f) Nothing in this section shall prohibit a city, county, or city
11 and county from adopting ordinances or policies that further restrict
12 the location or establishment of a medical marijuana cooperative,
13 collective, dispensary, operator, establishment, or provider.

14 (g) Nothing in this section shall preempt local ordinances,
15 adopted prior to ~~January 1, 2011~~ *January 1, 2015*, that regulate
16 the location or establishment of a medical marijuana cooperative,
17 collective, dispensary, operator, establishment, or provider.

18 (h) For the purposes of this section, “school” means any public
19 or private school providing instruction in kindergarten or grades
20 1 to 12, inclusive, but does not include any private school in which
21 education is primarily conducted in private homes.

22 SEC. 3. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.